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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,950	09/12/2003	Keri A. Holmgren	1058.2.1	8384

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EXAMINER

BURNHAM, SARAH C

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,950

Applicant(s)

HOLMGREN ET AL.

Examiner

Sarah C. Burnham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 14-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/12/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 14-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 18, 2004.
2. Applicant's election with traverse of Group 1 in the reply filed on November 18, 2004 is acknowledged. The traversal is on the ground(s) that the restriction is improper. This is not found persuasive because Applicant states no reasons why the restriction is improper.

The requirement is still deemed proper and is therefore made FINAL.

Priority

3. Acknowledgement is made of applicant's claim for domestic priority based on provisional application 60/410112 filed in the United States on September 12, 2002.

Information Disclosure Statement

4. The information referred to in the information disclosure statements filed on September 12, 2003 has been considered as to the merits.

Specification

5. The use of the trademark VELCRO has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

6. Claim 21 is objected to because of the following informalities: It currently depends from itself, which is not possible. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites an apparatus "for thermally protecting an unoccupied child car seat." This recitation does not positively claim the child car seat. Claim 10 locates the apparatus with respect to the child car seat by stating that the storage position is above the child car seat. Also, claim 11 locates the apparatus with respect to the child car seat by stating that the storage position is behind the child car seat. These recitations appear to be positively claiming the child car seat. Clarification is requested.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1 and 3-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosen (5,549,354). Rosen discloses an apparatus (A) for thermally protecting an unoccupied child car seat (S), the apparatus comprising: a flexible thermal barrier (30) comprising: an insulating layer (44) which is “provided with an insulating liner” (column 7, lines 36-37) to provide thermal resistance, a reflecting layer (46) which “may be only a metalized film, having a highly reflective surface” (column 5, lines 63-64); and the flexible thermal barrier (30) shaped and sized to substantially cover and thermally protect an interior portion (26) of an unoccupied child car seat (S). An attachment mechanism, in the form of an elastic band (32), is configured to facilitate removal of the flexible thermal barrier (30) from the child car seat (S).

With respect to claim 3, the flexible thermal barrier “can be folded, or wadded up into a small compact unit when not in use” (column 5, claims 61-62).

With respect to claim 4, the flexible thermal barrier (30) “may be formed of a material so that it is capable of being readily washed” (column 7, lines 30-31).

With respect to claims 10 and 11, the structure disclosed by Rosen is capable to being stored above or behind the child seat.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen (5,549,354) in view of Vogt et al. (US 2003/0144410). As disclosed above, Rosen reveals all claimed elements with the exception of an absorbent layer designed to absorb radiant energy.

Vogt et al. teach the use of a polymer latex for ultraviolet absorption on different substrate.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to add a coating of the disclosed polymer latex taught by Vogt et al. to the apparatus (A) disclosed by Rosen. Such a modification would help prevent "a loss of color or, at the least, a noticeable decrease in color strength" [paragraph 0004].

13. Claims 5, 9 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen (5,549,354) in view of Schmitz (5,833,309). As disclosed above, Rosen reveals all claimed elements with the exception of a pouch for receiving a temperature moderation device and a strap and a fastener for securing the flexible thermal barrier in the storage position.

Schmitz teaches the use of pouches (38)(38a) for receiving packets of cooling or warming material. Furthermore, Schmitz teaches the use of a strap (2) for securing a child car seat cover apparatus (10) in a storage position. Schmitz also reveals that in place of the illustrated one piece strap (20) a "two piece strap with an attaching hook and loop assembly" (column 6, lines 26-27) could be used to secure the apparatus in a storage position.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to include pouches (38)(38a) as taught by Schmitz on the apparatus (10) disclosed by Rosen. Such a modification would improve the comfort of the child seat occupant. Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the instant invention to include the securing means taught by Schmitz on the apparatus revealed by Rosen. Such a modification would enable the apparatus user to neatly store the apparatus as opposed to a wad.

14. Claims 6 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen (5,549,354) in view of Schmitz (5,833,309) and in further view of O'Sullivan (5,572,757). As disclosed above, Rosen, as modified, reveals all claimed elements with the exception a detachable pouch with a water absorbent lining.

O'Sullivan teaches the use of a detachable pouches (54) made of absorbent terry cloth material for containing a temperature moderation device (52).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the pouches disclosed by Rosen, as modified, to be

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detachable as taught by O'Sullivan. Such a modification would enable the pouches to be positioned where they are most effective.

15. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen (5,549,354) in view of Karpinski (4,304,824). As disclosed above, Rosen reveals all claimed elements with the exception of the thermal barrier being a quilted blanket.

Karpinski discloses an insulation "quilt" that has a reflective outer layer (15) and an insulating inner layer made of pellets (16).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to quilt the thermal barrier disclosed by Rosen as taught by Karpinski. Such a modification would create a softer apparatus and allow the apparatus to be comfortably placed under the seat occupant.

16. Claims 7 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen (5,549,354) in view of Schmitz (5,833,309), in further view of O'Sullivan (5,572,757) and in further view of Boyer et al. (6,088,856). As disclosed above, Rosen, as modified, reveals all claimed elements with the exception of a pouch comprising waterproof material.

Boyer teaches the use of a waterproof pouch (14) for containing liquids located inside a support element.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to make the pouch elements (38)(38a) disclosed by Rosen, as

modified, waterproof. Such a modification would prevent the condensation for the cool or warming element located inside the pouch from making the covering material wet.


Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Dudley (6,012,189); O'Sullivan (5,297,304); Perdelwitz, Jr. et al (4,885,200); Ackley (5,010,610); Dunne et al. (6,394,543).

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-305-7315. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Peter M. Cuomo
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December 3, 2004